

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**WILSON P. RICHARD,**

**Plaintiff,**

**v.**

**FINANCE of AMERICA MORTGAGES, LLC, :  
formerly known as GATEWAY FUNDING :  
DIVERSIFIED MORTGAGE SERVICES, LP, :  
et al., :**

**Defendants.**

**:  
: CIVIL ACTION NO. 3:18-CV-559  
:  
: (JUDGE MARIANI)  
: (Magistrate Judge Carlson)  
:  
:  
:**

**ORDER**

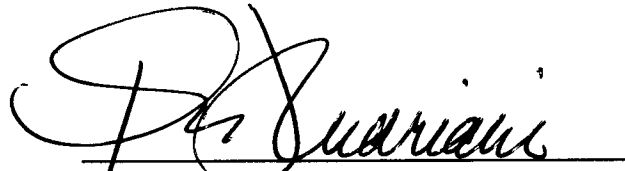
**AND NOW, THIS 4TH DAY OF SEPTEMBER 2019**, upon receipt of Plaintiff's "Praecipe to Discontinue Without Prejudice" (Doc. 103), requesting that this action be "discontinued and ended without prejudice" as to Defendant QBE Insurance Corporation, **IT IS HEREBY ORDERED THAT:**

1. The Court will construe Plaintiff's filing as a notice of voluntary dismissal of Defendant QBE Corporation under Rule 41(a)(1)(i);<sup>1</sup>
2. Defendant QBE Insurance Corporation is **DISMISSED WITHOUT PREJUDICE** from this action;

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<sup>1</sup> Plaintiff cited no authority in support of the filing. Further, a "praecipe" is not a recognized filing in this Court. Therefore, Plaintiff incorrectly characterized the filing requesting dismissal of Defendant QBE Corporation.

3. Defendant QBE Insurance Corporation's Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(6) (Doc. 96) is **DISMISSED AS MOOT**;<sup>2</sup>
4. This case is **REMANDED** to Magistrate Judge Carlson for further proceedings in accordance with this Court's prior Order (Doc. 66).



Robert D. Mariani  
United States District Judge

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<sup>2</sup> At the time Plaintiff filed the "Praecipe to Discontinue Without Prejudice" (Doc. 103), Magistrate Judge Carlson's Report and Recommendation (Doc. 102) addressing Defendant QBE Insurance Corporation's Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(6) (Doc. 96) was pending before the Court. The Magistrate Judge reviewed the record and relevant filings and recommended that Defendant QBE Insurance Corporation's Motion be granted pursuant to Local Rule 7.6 of the Local Rules of Court of the Middle District of Pennsylvania based on Plaintiff's failure to respond to Defendant's motion (Doc. 102 at 5-7) and pursuant to Federal Rule of Civil Procedure 41(b) based on Plaintiff's failure to follow Court orders and neglect in litigating the case (Doc. 102 at 7-13 (finding all relevant factors identified in *Poulis v. State Farm Fire and Cas. Co.*, 747 F.2d 863 (3d Cir. 1984), weigh in favor of dismissal)). While the Court does not condone Plaintiff's conduct in litigating this matter, because Plaintiff's filing preceded the expiration of the time for filing objections to the R&R, the matter was no longer extant for purposes of determining whether to adopt the R&R and grant the motion to dismiss.